

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

DERRICK BASS,

Defendant.

CASE NO. 8:08CR274

TENTATIVE FINDINGS

The Court has received the Presentence Investigation Report (“PSR”) and the Defendant’s objections thereto (Filing No. 58). The government adopted the PSR (Filing No. 54). See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

The Defendant objects to ¶ 90, in which the probation officer states that she has not identified any factors warranting a sentence outside the guideline range. The objection is denied, as the Court is not at liberty to change the probation officer's opinion. However, the Defendant's motion for variance (Filing No. 57) will be heard at sentencing.

The Defendant's motions to file a motion for downward departure out of time (Filing No. 60) and the motion for downward departure (Filing No. 61) will be addressed at the sentencing hearing.

IT IS ORDERED:

1. The Defendant's objections to the PSR (Filing No. 58) are denied;
2. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are

required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

3. Absent submission of the information required by paragraph 3 of this Order, my tentative findings may become final;

4. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing;

5. The Defendant's motion for variance (Filing No. 57) will be heard at sentencing; and

6. The Defendant's motions to file a motion for downward departure out of time (Filing No. 60) and the motion for downward departure (Filing No. 61) will be addressed at sentencing.

DATED this 15th day of September, 2009.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge